

E-015, 296/SA-92-1174; E-296/C-89-29 ORDER APPROVING AGREEMENT,
CHANGING OFFICIAL SERVICE AREA MAPS, AND CLOSING COMPLAINT DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Joint
Petition for Approval of an
Agreement to Exchange Service
Territory and Facilities

ISSUE DATE: January 4, 1993

DOCKET NO. E-015, 296/SA-92-1174

In the Matter of a Complaint
Against Proctor Public Utilities
Commission by Non-Resident
Customers

DOCKET NO. E-296/C-89-29

ORDER APPROVING AGREEMENT,
CHANGING OFFICIAL SERVICE AREA
MAPS, AND CLOSING COMPLAINT
DOCKET

PROCEDURAL HISTORY

On September 25, 1992 the Proctor Public Utilities Commission (Proctor) and Minnesota Power filed a joint petition for Commission approval of an agreement settling service area disputes between them. The agreement provided for the two utilities to exchange specified facilities and portions of their assigned service areas. It also included a full requirements wholesale Electric Service Agreement, under which Minnesota Power would provide Proctor with all its capacity and energy needs from January 1, 1995 through December 31, 2014. The service area and facilities exchange would take place in 1995, when performance began under the Electric Service Agreement.

In conjunction with the Electric Service Agreement, Minnesota Power agreed to sell utility supplies to Proctor, at Proctor's option; to provide engineering services at cost, under the terms of an agreement to be negotiated in the future; and to grant Proctor a \$40,000 credit toward engineering services during the term of the Electric Service Agreement. The settlement agreement involved no cash payment by either utility.

Finally, the agreement provided for the dismissal of a petition Proctor had filed in another docket, asking the Commission to order Minnesota Power to stop serving a customer allegedly within Proctor's assigned service area. The petition, filed in the complaint docket listed above, was captioned "Request for Revision of the Official Service Area Map and for an Order Directing Minnesota Power to Immediately Disconnect its Facilities from the DM&IR Railroad."

Since the Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over wholesale transactions, the agreement was contingent upon the approval of both the FERC and this Commission.¹

On October 14, 1992 the Commission issued a Notice of Filing and Comment Period, soliciting comments on the settlement agreement. On November 6, 1992 the Department of Public Service (the Department) filed comments recommending approval of the agreement. The Department was the only party to comment.

The matter came before the Commission on December 10, 1992.

FINDINGS AND CONCLUSIONS

Under the settlement agreement, the boundaries of Proctor's assigned service area will be the same as its municipal boundaries. This is consistent with the Public Utilities Act, which allows municipal utilities to acquire the service areas of utilities serving within their municipal boundaries upon payment of appropriate compensation. Minn. Stat. § 216B.44 (1990).

The parties' decision to enter into negotiations was also consistent with the Act, which encourages municipal utilities and the utilities they wish to displace to reach compensation agreements. Finally, by ending confusion about the location of the two utilities' boundaries, the agreement promotes the Act's goals of establishing readily identifiable, universally respected assigned service areas. Minn. Stat. § 216B.39-.40 (1990).

The Commission finds that the agreement is in the public interest and will further the goals of the assigned service area statutes. It will be approved. The official service area maps will be revised to reflect the changes negotiated by the parties.

ORDER

1. The settlement agreement filed by the Proctor Public Utilities Commission and Minnesota Power on September 25, 1992, is approved.

¹ The FERC approved the agreement on November 12, 1992 in FERC Docket ER92-860-000.

2. The petition filed by the Proctor Public Utilities Commission on December 18, 1989, captioned "Request for Revision of the Official Service Area Map and for an Order Directing Minnesota Power to Immediately Disconnect its Facilities from the DM&IR Railroad," is dismissed.
3. Complaint Docket E-296/C-89-29 is closed.
4. The Department of Public Service shall revise the official service area maps to reflect the boundary changes approved herein, including their 1995 effective date.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)